

Application No. 08/ 535

[moving the guide tube outwardly so that it no longer extends within the puncture and leaves the guide wire extending through the puncture,]

moving the plug inwardly along the guide wire into blocking relation with said puncture, and

withdrawing the guide wire from the plug so as to leave the plug sealed in blocking relation with said puncture.

REMARKS

This is in response to the official action of May 25, 2000, in which the Examiner set a one-month period for response. The appropriate extensions of time are included herewith.

The lengthy and circuitous history of this application apparently continues to unfold.

As of September of 1997 the Examiner had agreed to declare an interference between this application and U.S. Patent No. 5,292,332, indicating that claim 104 is identical to claim 37 of the '332 patent, and that claim 103 corresponds substantially to claim 1 thereof. Since that date, however, no such interference has yet been declared. A supplemental action then issued on February 8, 1999, withdrawing the previously indicated allowability of claims 95-102 based upon newly raised objections under § 112. Claims 103 and 104 remained allowable at that time, still leaving a basis for declaration of such an interference.

Applicants then responded to that objection on June 21, 1999, appropriately amending claim 95 to overcome the objections. After the Examiner then indicated that the response was incomplete because of failure to address claim 102, a supplemental amendment was filed so amending claim 102. However, in the latest action, the indication of allowability of claim 103 has now been withdrawn, with a new question being raised under § 112, first paragraph.

Applicants have now amended claim 103 in a manner which is believed to fully overcome the latest objection under § 112. It is again noted, however, that claim 104, which is admittedly identical to claim 37 of the '332 patent, remains allowed and in this application, once again providing more than adequate basis for the declaration of this interference. It is therefore respectfully requested that the Examiner finally take such action so that the appropriate proceeding can finally be initiated.

Claim 103 has been rejected under 35 U.S.C. § 112, first paragraph. The Examiner contends that the specification is enabling for "withdrawing the cardiac catheter" but does not enable "withdrawing the cardiac catheter from the guide tube" and "move the guide tube outwardly so that it no longer extends within the puncture and leave the guide wire extending through the puncture."

The Examiner thus contends that the claim in the '332 patent is directed to a method of closing a puncture in an artery wall, and that the recitation in the preamble which is said to give breadth and meaning to the claim recites an exterior guide tube extended into the puncture and into the artery to enable a cardiac catheter to move into the artery, and then for withdrawing the cardiac catheter from the guide tube. The Examiner thus cites applicants' disclosure and states that it cannot support this step because the disclosure specifically teaches removing the device 7 and cannula 3, leaving the guide wire 15 in place.

Reference is thus made to the above-noted amendments to claim 103. Without making any admissions, by amending that claim to specifically cover both withdrawing the cardiac catheter and moving the guide tube outwardly so that it no longer extends within the puncture, applicant was able to delete the previously claimed step of moving the guide tube outwardly so that it no

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longer extends within the puncture and leave the guide wire extending through the puncture. It is thus believed that the language of claim 103 covers applicants' disclosed process of withdrawing both catheter 7 and cannula 3, leaving the guide wire in place, and, of course, extending the plug with a removable guide wire extending longitudinally therethrough so that the guide wire extends from the plug through the puncture, as well as moving the plug inwardly into blocking relation with the puncture prior to withdrawal of the guide wire. Furthermore, claims 103 also broadly covers the Lee process in which Lee's method sequentially leaves the sheath in place after withdrawal of the catheter from the sheath and the puncture prior to extending the plug and moving the plug inwardly along the guide wire into blocking relation with the puncture prior to withdrawal of the guide wire.

It is therefore respectfully submitted that claim 103 is clearly patentable in the present application. It is also believed that claim 103 corresponds to claim 1 of the '332 patent. In any event, however, since it has already been established that claim 104 corresponds to claim 37 of the '332 patent, once again, more than adequate basis exists for the declaration of this interference, and such action is again respectfully solicited.


If, however, for any reason the Examiner still does not believe that such action can be taken, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any further objections the Examiner might have to taking such action at this time.

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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Respectfully submitted,

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